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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,101	04/05/2007	Wolfgang Guhr	19357-107359	3429

7590 12/23/2009
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EXAMINER

REESE, ROBERT T

ART UNIT	PAPER NUMBER
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3657

MAIL DATE	DELIVERY MODE
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12/23/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/584,101</p>	<p>Applicant(s) GUHR ET AL.</p>	
	<p>Examiner ROBERT T. REESE</p>	<p>Art Unit 3657</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 December 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☒ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Robert A. Siconolfi/
Supervisory Patent Examiner, Art Unit 3657

RTR

Continuation of 11. does NOT place the application in condition for allowance because: The Applicant has raised five issues regarding the final rejection. First, regarding the Massey et al. reference (5,866,647). Claim 14 recites 'a wrapping bushing formed of reinforced plastic'. The material of the Massey et al. reference meets this limitation in that it is a plastic, as shown by the first sentence of the abstract that discloses a "thermoplastic material reinforced with a high strength fiber and reinforcing beads." The fact that this material has other uses, or is designed to operate in a more demanding location of the engine is not given much weight. The next issue raised regards claims 19 and 20, and the selection of a spring for use in the tensioner. It is taken that one with ordinary skill in the art at the time of the invention would be capable of selecting a spring based on the location of the tensioner within the engine and the amount of force required to keep a chain in tension. It is also deemed that designing the proper bushing to support the spring would also fall within those capabilities. The next issue regards the chamfering of the bushing on the free end in claim 23. The specification designates the free end of the bushing as element 43. In figure 1 of the application, the label for element 43 appears to be middle of element 5, which is a bolt. As such it is not clearly defined as to what element 43 is supposed to indicate. The figure in DE 4326710 shows a chamfered end of bushing 8 at the bottom of the picture, and this is interpreted as meeting the claimed limitation. The next issue raised by the applicant addresses the rejections of claims 24 and 28. The prior art abstract of DE4326710 discloses: the base part having a helical spring which surrounds the friction cone, one end of which helical spring is secure on the base part. This is taken to be the mating engagement feature described in the claim. Since the abstract (and translation) identify this feature, it is construed that the depiction of it is implied in the figure. Finally, the prior art abstract also discloses: an axially slotted wrap around bush. This is taken to describe the plurality of discrete portions that are circumferentially spaced apart from one another. As before, since the abstract (and translation) identify this feature, it is construed that the depiction of it is implied in the figure..